



IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE
ART UNIT 3643

Examiner Richard Thomas Price, Jr.

Mark A. Poland

CASE 494

SERIAL NO. 10/620,138

FILED July 14, 2003

SUBJECT CRUSTACEAN SHELLING TOOL AND PROCESS FOR USE THEREOF

THE COMMISSIONER OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231

SIR:

DECLARATION PURSUANT TO 37 CFR 1.132

I, Francis H. Jacquinet, state as follows:

THAT I am the owner of a business known as Atelier Jacquinet, the address of which is 913 A McKee Street, Houston, Texas 77002-1114, specializing in culinary arts consulting and training and food research and development;

THAT for the past six years I have held the title of Chief Instructor at the Art Institute of Houston, Texas, instructing students in the art of international and classic cuisine preparation;

THAT I have worked for twenty-nine years in the food industry, both in

the U.S. and abroad, holding the positions of Chef de Cuisine, Sous Chef, and Executive Chef at multiple establishments;

THAT I am certified as Chef de Cuisine CCC by the American Culinary Federation and hold the degree of Associate of Applied Science in Culinary Arts;

THAT over the course of my career I have won numerous awards, including the Judges Award at the American Culinary Federation, First Place at the St. Louis Chef's de Cuisine Culinary Arts Salon, First Place at the Texas Chef's Association 10th Culinary Arts Salon, Gold Medal at the Bermuda Culinary Art Salon, and First Prize at the Societe Philantropique of New York;

THAT my professional affiliations include those as past Public Relations Chairman with the St. Louis Chefs de Cuisine and as a certified member of the American Culinary Federation;

THAT having resided and worked in Houston, Texas, for the past six years, I am very familiar with crawfish boils and the problems attendant with shelling those and other crustaceans;

THAT I have reviewed U.S. Patent Application Serial No. 10/620,138 of Mark A. Poland, entitled Crustacean Shelling Tool and Process for use Thereof, and the Office Action mailed January 2, 2005, in that application;

THAT I have reviewed U.S. Patent No. 5,586,931 to Richard M. Williams, Jr., entitled Hand Operated Crab Leg Opener with Multiangled Blade;

THAT I have evaluated a prototype of the crustacean shelling tool described and claimed in Mr. Poland's pending patent application, using it repeatedly to shell a quantity of crawfish that I purchased;

THAT I found Mr. Poland's tool to work very effectively, in accordance with the description and claims in his patent application, to open the

underbelly of a crawfish tail, thereby exposing the tail meat and permitting its removal with a minimum of stress so that the succulent juices are retained for the enjoyment of the patron;

THAT during my career as a Certified Chef de Cuisine with the American Culinary Federation, as well as my extensive travel within the U.S. and abroad, I have never encountered a tool that worked as well to shell crawfish as the tool supplied to me by Mr. Poland;

THAT the Williams, Jr. patent is directed to a crab leg opener having a blade and a method of use thereof described at column 2, lines 47-56 of the Williams, Jr. reference, in which "...the sharpened edge of the blade can pass along below the shell, and cut the shell as a user grasping the handle forces the blade along the underside of the shell.";

THAT the Williams, Jr. patent describes a can opener or prizing type of pushing and lifting motion of the crab leg opener described therein, in order to break a particularly tough shell of a crab leg, as set forth at column 2, lines 64-67 of that reference;

THAT the tool described in the Williams, Jr. patent is adapted for use on rigid shells such as crab legs, which contain firm meat, not on the underside of soft tail shells, like that of crawfish, which contain a very soft and delicate meat;

THAT the Williams, Jr. patent states at column 2, lines 57-64, "...when necessary, the sharpened edge of the blade can be brought forcefully into contact with the underside of the shell as a result of lifting the handle, thus to cause a forward portion of the blade-protecting member to pivot upon an upper portion of the shell to break at the location of the sharpened edge of the

blade." Thus, in order to use the tool described in the Williams, Jr. patent, it is required that the tool contact a rigid pivot point on a hard shell;

THAT I believe that the attempted use of the tool of the Williams, Jr. patent, as described therein, would simply curl the soft tail section of a crawfish, rather than cut it;

THAT I found Mr. Poland's tool well adapted for use on the soft underside of a crawfish tail, as opposed to other tools, like that described in the Williams, Jr. patent, that do not have the ability to self-support the cracking of a soft tail shell;

THAT I found Mr. Poland's tool to be very effective in self-supporting a soft crawfish shell by providing a fork member above and below the soft shell;

THAT as I rotated Mr. Poland's tool about its longitudinal axis, as described and claimed in his patent application, two of the four slot adges serve to support the soft shell, both from above and below, along its entire length, thereby facilitating easy cracking of the soft underside of the tail shell through rotation of the tool;

THAT Mr. Poland's tool and its use involving the step of rotating the tool, following complete insertion thereof in the tail shell of a crawfish, as described and claimed in his patent application, is totally unlike the tool described in the Williams, Jr. patent, whose use relies on a sharp blade member and requires a "steady, linear" pushing motion or repeated pushing and lifting of the tool to move it along the length of the crab leg shell to be cracked;

THAT the Williams, Jr. patent contains no suggestion whatsoever of rotating his tool about its longitudinal axis to effect cracking of a crustacean shell;

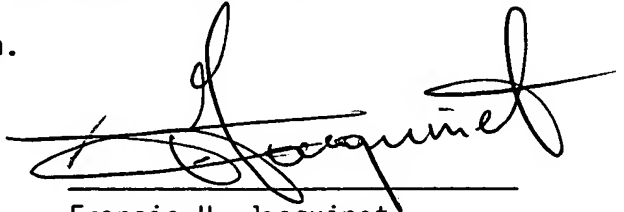
THAT the Examiner is in error in his assertion on page 2 of the outstanding Office Action in Mr. Poland's patent application that, as shown in Figure 7 of the Williams, Jr. patent, the user will rotate the tool described in that reference, if necessary, about a longitudinal axis to produce a crack in the underside of the crustacean and expose the meat contained therein;

THAT, contrary to the Examiner's assertion, Figure 7 of the Williams, Jr. patent illustrates the way in which the tool described in that reference is lifted such that the sharpened blade is raised to achieve an upward breaking of a portion of the crustacean shell, as described at column 5, lines 27-34 and at column 2, lines 57-67 of the Williams, Jr. reference;

THAT I believe rotation of the tool described in the Williams, Jr. patent would not serve to crack the shell, but would only result in damaging the meat contained therein; and

THAT I hereby declare that all statement made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: May 27, 2005


Francis H. Jacquinet